

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ARISTOCRAT TECHNOLOGIES, INC.,)

Plaintiff,)

v.)

LEANDRUS YOUNG, et al.,)

Defendants.)

2:09-cv-00348-PMP-LRL

O R D E R

This case comes before the court on defendant's Emergency Motion to Permit the Deposition of Leandrus Young to Preserve His Testimony for Trial (#78). The court has considered the motion and plaintiff's Response (#81). For the reasons that follow, the motion will be denied.

Defendant Leandrus Young lives in Arnaudville, Louisiana, which is some two hours by car from Lake Charles, Louisiana. By all accounts, Mr. Young is quite ill and unable to travel. For health reasons he couldn't attend the recent settlement conference, and won't be able to attend the trial, which is set for June 14, 2011. He now seeks an order permitting him to sit for a deposition at his home in Arnaudville so that his testimony may be preserved for trial.

Plaintiff strenuously objects to the motion. Plaintiff notes that Mr. Young's health problems have been an issue in this case as early as March, 2010; and that discovery closed on August 19, 2010, more than nine months ago, after having been extended twice. Plaintiff also complains that with trial less than three weeks away, it would be unduly burdensome and highly prejudicial to require plaintiff to travel to Arnaudville, Louisiana to take a deposition that could have been taken a year ago. The court agrees.

1 During the discovery period months ago Mr. Young could have and should have noticed his
2 deposition for trial preservation purposes. His failure to do so reflects a stunning lack of diligence,
3 particularly in light of his declining health as early as March, 2010, which rendered him physically
4 unable to travel to Las Vegas for deposition or trial purposes. His lack of diligence should not be
5 rewarded, particularly in light of the prejudice that plaintiff would suffer at this late date if it were
6 required to interrupt its trial preparation in order to depose Mr. Young.

7 IT IS THEREFORE ORDERED that defendant's Emergency Motion to Permit the Deposition
8 of Leandrus Young to Preserve His Testimony for Trial (#78) is denied.

9 DATED this 31st day of May, 2011.

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12 **LAWRENCE R. LEAVITT**
13 **UNITED STATES MAGISTRATE JUDGE**
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